

Johnny Calloway, #272829,	)	C.A. No. 1:09-1925-TLW-SVH
	)	
Plaintiff,	)	
	)	
-versus-	)	ORDER
	)	
Rhonda Abston, Wade Byrd and Officer Jeffrey,	)	
	)	
Defendants.	)	
	)	

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report.

**THEREFORE, IT IS HEREBY ORDERED** that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 56). Furthermore, (1) Plaintiff's Motions for a Temporary Restraining Order are **DENIED** as **MOOT** (Docs. # 20 & # 45); (2) Plaintiff's Motion for Default Judgment is **DENIED** (Doc. # 21); (3) Plaintiff's Motion for Summary Judgment is **DENIED** (Doc. # 27) and (4) Defendants' Motion for Summary Judgment is **DENIED** in part and **GRANTED** in part (Doc. # 37). (Doc. # 56) Specifically, Defendants' Motion for Summary Judgment is **DENIED** as to Plaintiff's claims of excessive force and conspiracy against Defendants Byrd and Jeffrey under §1983 and summary judgment is **GRANTED** on all other claims. Both Plaintiff's and Defendants' objections are **OVERRULED** (Docs. # 58 & # 60).

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
**TERRY L. WOOTEN**  
**UNITED STATES DISTRICT JUDGE**

September 13, 2010  
Florence, South Carolina